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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,686	04/30/2002	Robert A Leydier	01213/TL	2354

41754 7590 08/10/2004

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EXAMINER
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CRANE, SARA W

ART UNIT	PAPER NUMBER
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2811

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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Paper No. 18

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AUG 10 2004

In re Application of:	:	
Robert A. Leydier et al.	:	
Serial No.: 09/807,686	:	DECISION ON PETITION TO
Filed: April 30, 2002	:	WITHDRAW THE HOLDING
Attorney Docket No.: 01213/TL / 76.0531 US	:	OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181 filed on November 14, 2003. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on February 13, 2003. A Notice of Abandonment was mailed on October 2, 2003.

Petitioner asserts that a response to the Office action was timely filed on August 12, 2003. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on August 12, 2003. Although the response incorrectly lists the Serial No. as 08/807,686 instead of 09/807,686, the other information such as filing date and inventor are correct. The combination of information should have been sufficient to match the response to the application file. The response of August 12, 2003 would have been a timely response to the Office action of February 13, 2003 since it was filed with a petition and fee for a three-month extension of time. A new power of attorney was also filed with the response.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on August 12, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed October 2, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

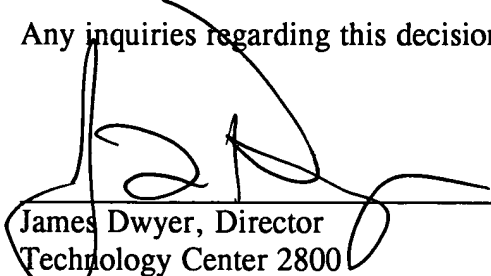
The copy of the response submitted with the petition on November 14, 2003 is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response and processing of the three-month extension of time. The application file will then be forwarded to the Examiner for prompt appropriate action.

PTO records indicate that the \$930.00 fee for the three-month extension of time was charged to Deposit Account No. 502114 and associated with Serial No. 08/807,686. The fee was received on August 12, 2003 and posted on August 14, 2003. The correction will be made to associate this fee with Serial No. 09/807,686.

It is noted that the present petition, like the response of August 12, 2003, incorrectly lists the Serial No. of the present application as 08/807,686. Applicant is requested to correct their records so that any future paper submitted for the present application correctly lists the Serial No. as 09/807,686.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



James Dwyer, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components